Civil Revision No. 357 of 2001
(Old Civil Revision No. 270 of 1997)
Hon'ble P.C. Pant, J.

None present for the revisionist.

Shri T.C. Pandey, Advocate is present on behalf of respondent no. 3.

This revision is directed against the order dated 16.07.1997, passed in civil suit No. 117 of 1986, whereby application No. 212 C, has been rejected by the trial court. By said application the plaintiff has prayed tat the issue No. 10 has to be decided as preliminary issue. The trail court was of the view that since issue No. 10, also requires recording of oral evidence to be adduced by the parties as such application 212-C was rejected. There is no illegality in the order passed by the trail court, as it is the discretion of the trial court to decide the issue as preliminary one or with the other issues at the time of final hearing, particularly in the matters where oral evidence was required to be adduced by the parties. There appears no jurisdictional error in the impugned order, which requires interference of this Court.

Accordingly, the revision is dismissed. Interim order dated 18.09.1997 stands vacated.

Dt. 19.04.2006 **(Prafulla C. Pant, J.**
Sweta